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SENATE BILL 91

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

H. Diane Snyder

FOR THE JUDICIAL SYSTEM STUDY COMMITTEE

AN ACT

RELATING TO DRUG COURTS; ESTABLISHING PROGRAM FEES; CREATING FUNDS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 34, Article 6 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DRUG COURT FEES--FUND CREATED.--

A. In addition to any other fees collected in the district court, a district court that has established an adult drug court may assess and collect from participants a "drug court fee" of not more than one hundred sixty dollars (\$160) a month. The drug court may choose to assess the fee on a sliding scale and may waive all or a portion of the fee. The drug court shall submit its written fee policy to the administrative office of the courts.

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1           B. Drug court fees shall be deposited in the "drug  
2 court fund" of a specific judicial district in the state  
3 treasury. The judicial district shall administer money in the  
4 fund to offset client service costs of the drug court program,  
5 consistent with standards approved by the supreme court. Money  
6 in the fund shall be expended on warrants of the secretary of  
7 finance and administration upon vouchers signed by the drug  
8 court program coordinator or his authorized representative.  
9 Balances in the fund shall not revert to the general fund at  
10 the end of a fiscal year."

11           Section 2. A new section of Chapter 34, Article 8A NMSA  
12 1978 is enacted to read:

13           "[NEW MATERIAL] METROPOLITAN DRUG COURT FUND--CREATED.--  
14 The "metropolitan drug court fund" is created in the state  
15 treasury. The Bernalillo county metropolitan court shall  
16 administer money in the fund to offset client service costs of  
17 the drug court program, consistent with standards approved by  
18 the supreme court. Money in the fund shall be expended on  
19 warrants of the secretary of finance and administration upon  
20 vouchers signed by the drug court program coordinator or his  
21 authorized representative. Balances in the fund shall not  
22 revert to the general fund at the end of a fiscal year."

23           Section 3. A new section of Chapter 34, Article 9 NMSA  
24 1978 is enacted to read:

25           "[NEW MATERIAL] MAGISTRATE DRUG COURT FUND--CREATED.--The

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1 "magistrate drug court fund" is created in the state treasury.  
2 The administrative office of the courts shall administer money  
3 in the fund to offset client service costs of drug court  
4 programs in magistrate courts, consistent with standards  
5 approved by the supreme court. Money in the fund shall be  
6 expended on warrants of the secretary of finance and  
7 administration upon vouchers signed by the drug court program  
8 coordinator or his authorized representative. Balances in the  
9 fund shall not revert to the general fund at the end of a  
10 fiscal year. "

11 Section 4. Section 35-6-1 NMSA 1978 (being Laws 1968,  
12 Chapter 62, Section 92, as amended by Laws 2001, Chapter 277,  
13 Section 2 and also by Laws 2001, Chapter 279, Section 2) is  
14 amended to read:

15 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
16 "CONVICTED".--

17 A. Magistrate judges, including metropolitan court  
18 judges, shall assess and collect and shall not waive, defer or  
19 suspend the following costs:

- 20 docket fee, criminal actions under Section 29-5-1 NMSA
- 21 1978 . . . . . \$ 1.00;
- 22 docket fee, to be collected prior to docketing any other
- 23 criminal action, except as provided in Subsection B
- 24 of Section 35-6-3 NMSA 1978 . . . . . 20.00.
- 25 Proceeds from this docket fee shall be transferred

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1 to the administrative office of the courts for  
2 deposit in the court facilities fund;  
3 docket fee, ten dollars (\$10.00) of which shall be  
4 deposited in the court automation fund and fifteen  
5 dollars (\$15.00) of which shall be deposited in the  
6 civil legal services fund, to be collected prior to  
7 docketing any civil action, except as provided in  
8 Subsection A of Section 35-6-3 NMSA 1978 . . . 62.00;  
9 jury fee, to be collected from the party demanding trial  
10 by jury in any civil action at the time the demand  
11 is filed or made . . . . . 25.00;  
12 copying fee, for making and certifying copies of any  
13 records in the court, for each page copied by  
14 photographic process . . . . . .50.  
15 Proceeds from this copying fee shall be transferred  
16 to the administrative office of the courts for  
17 deposit in the court facilities fund; and  
18 copying fee, for computer-generated or electronically  
19 transferred copies, per page . . . . . 1.00.  
20 Proceeds from this copying fee shall be transferred  
21 to the administrative office of the courts for  
22 deposit in the court automation fund.

23 Except as otherwise specifically provided by law, docket  
24 fees shall be paid into the court facilities fund.

25 B. Except as otherwise provided by law, no other

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1 costs or fees shall be charged or collected in the magistrate  
2 or metropolitan court.

3 C. The magistrate or metropolitan court may grant  
4 free process to any party in any civil proceeding or special  
5 statutory proceeding upon a proper showing of indigency. The  
6 magistrate or metropolitan court may deny free process if it  
7 finds that the complaint on its face does not state a cause of  
8 action.

9 D. As used in this subsection, "convicted" means  
10 the defendant has been found guilty of a criminal charge by the  
11 magistrate or metropolitan judge, either after trial, a plea of  
12 guilty or a plea of nolo contendere. Magistrate judges,  
13 including metropolitan court judges, shall assess and collect  
14 and shall not waive, defer or suspend the following costs:

15 (1) corrections fee in any county without a  
16 metropolitan court, to be collected upon conviction from  
17 persons convicted of violating any provision of the Motor  
18 Vehicle Code involving the operation of a motor vehicle,  
19 convicted of a crime constituting a misdemeanor or a petty  
20 misdemeanor or convicted of violating any ordinance that may be  
21 enforced by the imposition of a term of imprisonment . . . . .  
22 . . . . . \$10.00;

23 (2) court automation fee, to be collected upon  
24 conviction from persons convicted of violating any provision of  
25 the Motor Vehicle Code involving the operation of a motor

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1 vehicle, convicted of a crime constituting a misdemeanor or a  
2 petty misdemeanor or convicted of violating any ordinance that  
3 may be enforced by the imposition of a term of imprisonment . .  
4 . . . . . 10.00;

5 (3) traffic safety fee, to be collected upon  
6 conviction from persons convicted of violating any provision of  
7 the Motor Vehicle Code involving the operation of a motor  
8 vehicle . . . . . 3.00;

9 (4) judicial education fee, to be collected  
10 upon conviction from persons convicted of operating a motor  
11 vehicle in violation of the Motor Vehicle Code, convicted of a  
12 crime constituting a misdemeanor or a petty misdemeanor or  
13 convicted of violating any ordinance punishable by a term of  
14 imprisonment . . . . . 1.00;

15 (5) brain injury services fee, to be collected  
16 upon conviction from persons convicted of violating any  
17 provision of the Motor Vehicle Code involving the operation of  
18 a motor vehicle . . . . . 5.00;

19 and

20 (6) court facilities fee, to be collected upon  
21 conviction from persons convicted of violating any provision of  
22 the Motor Vehicle Code involving the operation of a motor  
23 vehicle, convicted of a crime constituting a misdemeanor or a  
24 petty misdemeanor or convicted of violating any ordinance that  
25 may be enforced by the imposition of a term of imprisonment as

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1 follows:

- 2 in a county with a metropolitan court . . . . . 24.00;
- 3 in any other county . . . . . 10.00.

4 E. Metropolitan court judges shall assess and  
5 collect and shall not waive, defer or suspend as costs a  
6 mediation fee not to exceed five dollars (\$5.00) for the  
7 docketing of small claims and criminal actions specified by  
8 metropolitan court rule. Proceeds of the mediation fee shall  
9 be deposited into the metropolitan court mediation fund.

10 F. A metropolitan court or magistrate court that  
11 has an adult drug court program may assess and collect from  
12 participants a "drug court fee" of not more than one hundred  
13 sixty dollars (\$160) a month. The drug court may choose to  
14 assess the fee on a sliding scale and may waive all or a  
15 portion of the fee. The court shall submit its written fee  
16 policy to the administrative office of the courts. Proceeds of  
17 the drug court fee shall be deposited in the metropolitan drug  
18 court fund or the magistrate drug court fund, as applicable."

19 Section 5. Section 35-7-4 NMSA 1978 (being Laws 1968,  
20 Chapter 62, Section 99, as amended) is amended to read:

21 "35-7-4. MAGISTRATE ADMINISTRATION-- MONTHLY  
22 REMITTANCES.-- Each magistrate court shall pay to the  
23 administrative office of the courts, not later than the date  
24 each month established by ~~regulation~~ rule of the director of  
25 the administrative office, the amount of all fines, forfeitures

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1 and costs collected by him during the previous month, except  
2 for amounts disbursed in accordance with law. The  
3 administrative office shall return to each magistrate a written  
4 receipt itemizing all money received. The administrative  
5 office shall deposit the amount of all fines and forfeitures  
6 with the state treasurer for credit to the current school fund.  
7 The administrative office shall deposit the amount of all  
8 costs, except all costs collected pursuant to Subsections D  
9 [~~and E~~] through F of Section 35-6-1 NMSA 1978, for credit to  
10 the general fund. The amount of all costs collected pursuant  
11 to Subsections D [~~and E~~] through F of Section 35-6-1 NMSA 1978  
12 shall be credited as follows:

13 A. the amount of all costs collected pursuant to  
14 Paragraph (1) of Subsection D of Section 35-6-1 NMSA 1978 for  
15 credit to the local government corrections fund;

16 B. the amount of all costs collected pursuant to  
17 Paragraph (2) of Subsection D of Section 35-6-1 NMSA 1978 for  
18 credit to the court automation fund;

19 C. the amount of all costs collected pursuant to  
20 Paragraph (3) of Subsection D of Section 35-6-1 NMSA 1978 for  
21 credit to the traffic safety education and enforcement fund;

22 D. the amount of all costs collected pursuant to  
23 Paragraph (4) of Subsection D of Section 35-6-1 NMSA 1978 for  
24 credit to the judicial education fund; [~~and~~]

25 E. the amount of all costs collected pursuant to

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Subsection E of Section 35-6-1 NMSA 1978 for credit to the  
metropolitan court mediation fund; and  
F. the amount of all costs collected pursuant to  
Subsection F of Section 35-6-1 NMSA 1978 for credit to the  
magistrate drug court fund. "

Section 6. EFFECTIVE DATE. --The effective date of the  
provisions of this act is July 1, 2003.